

Draft to Clerk:
Approved:
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**MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS
May 10, 2007 7:30 P.M.
CITY COUNCIL CHAMBERS, 10TH FLOOR CITY HALL**

I. ROLL CALL

The meeting was called to order by Chairman Burgess at 7:30 p.m. Chairman Burgess read the BZA introduction. Roll call was taken.

Present:

B. Burgess G. Swix E. Horne A. Frederick G. Hilts

Absent: F. Lain B. McGrain M. Mayberry

Staff: S. Stachowiak

A. A quorum of at five members was present, allowing voting action to be taken at the meeting.

II APPROVAL OF AGENDA

A. Frederick moved, seconded by G. Swix to approve the agenda with the addition of "excused absences" under new business.

On a voice vote, the motion carried 5-0.

III. HEARINGS/ACTION

A. BZA-3902.07, 223 S. Washington Square

This is a variance request by Stewart Powell of Linn & Owen Jewelers to remove the projecting sign from it's current location at 121 W. Washtenaw Street to it's new location at 223 S. Washington Square. The projecting sign is approximately 33 square feet in area and projects 11 feet from the wall of the building. Section 1442.24(d) of the Sign Ordinance permits a maximum projection of four (4) feet and a maximum sign area of sixteen (16) square feet. Variances of seven (7) feet to the allowable projection and seventeen (17) square feet to the allowable sign area are therefore, being requested. Staff recommended approval of the request on a finding that the variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

Stewart Powell, 121 W. Washtenaw, spoke in support of his request. Mr. Powell stated that the business is 90 years old this year and he purchased it in 1993. He said that the Accident Fund has purchased the building at 121 W. Washtenaw and they will not continue his lease which is why he has to relocate.

Mr. Frederick stated that the sign is in good shape. He asked if the sign has been

rehabilitated through the years.

Mr. Powell said that the sign has always been well maintained. He stated that it received a lot of work after some storm damage a few years ago.

Tim Kaltenbach, 512 Bartlett Street, stated that he is the council member for the 4th Ward which includes downtown area. He spoke in support of the request and stated that he glad that Linn & Owen Jewelers in staying in the downtown. He also said that he is happy to see that the Sign Ordinance is being rewritten so that the type of sign that Linn & Owen Jewelers will be permitted in the downtown area.

Monica Zuchowski, 320 N. Walnut Street, President of the Downtown Neighborhood Association, spoke in support of the request. She said that she is very glad that Linn & Owen Jewelers will be staying in the downtown.

Mr. Burgess asked if anyone else wished to address the Board. Seeing none, the Board moved into the Committee of the Whole.

Mr. Frederick stated that this is a nice sign and he would like to see it preserved in its new location. Mr. Frederick referred to an earlier case that was heard by the BZA regarding a unique projecting sign for a piano tuning business in Reo Town. He said that the Ordinance, as it is currently written, simply does not deal with these unique signs.

Mr. Hilts stated that David Sheets changed the bowling pin to a wine bottle on top of the Cadillac Club which created a unique sign.

Ms. Stachowiak said that the change Mr. Hilts referred to was just a re-face which is permitted, even on nonconforming signs.

Mr. Frederick stated that there is a substantial public interest in approving this variance to allow the sign to be moved to its new location.

A. Frederick moved to approve BZA-3902.07, a variance of 7 feet to the maximum allowable sign projection and 17 square feet to the allowable sign area limitation to permit the existing Linn & Owen Jewelers sign to be relocated from 121 W. Washtenaw to 223 S. Washington Square, on a finding that the variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application, with the condition that the sign be preserved in its current design. Seconded by E. Horne.

VOTE	YEA	NAY
Swix	X	
Horne	X	
Hilts	X	
Burgess	X	
Frederick	X	

Motion carried, 5-0, BZA-3902.07, was approved.

B. BZA-3903.07, 324 Crest Street

This is a variance request by Curtis Narragon to construct a 720 square foot, detached garage at 324 Crest Street. The garage would be located east of the house at 324 Crest Street and would have a front yard setback of thirty (30) feet. Section 1248.03(b)(6) of the Zoning Ordinance requires a sixty (60) foot front yard setback for detached garages in the "A" Residential zoning district. A variance of thirty (30) feet to the required front yard setback is therefore, being requested. Staff recommended approval of the request on a finding that the variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

Mary Jo Narragon, 324 Crest Street, spoke in support of her request. Ms. Narragon stated that she and her husband have lived at 324 Crest Street for over 40 years and she is thrilled that they will be able to finally build a garage. She said that she wants to have it as close to the house as possible.

Ms. Horne asked about what would happen to the existing driveway.

Ms. Narragon said that she would like to keep it.

Ms. Stachowiak said that the ordinance will require that the existing driveway be removed.

Mr. Burgess asked if anyone else wished to address the Board. Seeing none, the Board moved into the Committee of the Whole.

Mr. Frederick said that he could support the variance. He said that he is familiar with some of the circumstances surrounding Gordon Long's property in this area. He also said that the practical difficulty involving all of the grade changes is very evident in this case. He also said that the variance meets the intent of the ordinance which is to have the garage located behind the front wall of the house.

E. Horne moved to approve BZA-3903.07, a variance of 30 feet to the required front yard setback for a detached garage at 324 Crest Street, on a finding that the variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application, with the condition that the existing driveway on the west side of the house be removed and the garage be compatible with the house in terms of design, color and materials. Seconded by A. Frederick.

VOTE	YEA	NAY
Swix	X	
Horne	X	
Hilts	X	
Burgess	X	
Frederick	X	

Motion carried, 5-0, BZA-3903.07, was approved.

C. BZA-3904.07, 1709 Moores River Drive

This is a variance request by Byron & Gabrielle Haskins to construct an addition on the front of the house at 1709 Moores River Drive that would have a side yard setback of three (3) feet. Section 1248.08(b)(2) of the Zoning Ordinance requires a six (6) foot side yard setback in the "A" Residential zoning district. A variance of three (3) feet to the required side yard setback is therefore, being requested. Staff recommended approval of the request on a finding that the variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

Mr. Frederick stated that the intent of a nonconformity is to eventually bring them into conformance with the ordinance.

Ms. Stachowiak stated that the existing building, with the 3 foot side yard setback, is not nonconforming. She said that Chapter 1294 states that lots containing permitted uses in the "A", "B" or "C" Residential districts, that do not meet the dimensional requirements of the ordinance shall have conforming status. She said that this applies to the applicant's property since it is a single family home (which is a permitted use) in the "A" Residential district. Therefore, the 3 foot setback is conforming and the applicant can build the second story over the existing footprint of the house, by right. She said that the only issue is the 4.5 foot extension off the front of the house. Ms. Stachowiak explained that the clause in Chapter 1294 only applies to the existing footprint of the house. New additions that expand the footprint must comply with the current ordinance which requires a 6 foot side yard setback. She added that she even called her predecessor, Jim Ruff, just to run it by him and make sure that he agreed with her interpretation of the ordinance. Ms. Stachowiak stated that the reason the ordinance allows an exception for single family uses in the single family districts is because most of the houses in Lansing do not meet one or more of the dimensional requirements under the current ordinance and if they were all to be considered nonconforming, it would hinder their ability to be bought, sold, repaired and rebuilt.

Gabrielle Haskins, 1709 Moores River Drive, spoke in support of his request. She said that they intend to use the same brick on the new addition as what is currently on the house. She said that it will be a very nice project that will match the architecture of the existing house and therefore, it should increase the value of properties in the surrounding area; not decrease them.

Byron Haskins, 1709 Moores River Drive, spoke in support of his request. Mr. Haskins provided three letters of support from neighbors in the area, including one from the neighbor directly across the street. He said that he also has support from the Moores Park Neighborhood Association. Mr. Haskins said that he spoke with his neighbors about the project before they even started and as far as he knew, there were no problems. He said that while the roof was off, it gave the neighbors a good view and they probably liked that.

Rachel Warner, 1300 Pettis Street, spoke in opposition to the request. Ms. Warner said that the new addition will devalue her property by cutting off the view from her master bedroom. She said that this will impact their privacy, their view and will block sunlight. Ms. Warner said that she found out about the addition when she came home and found a hole where the applicants garage used to be. She said that this was the same day that the postcard about the variance hearing came in the mail.

Kevin Kowalk, 1300 Pettis Street, spoke in opposition to the request. Mr. Kowalk said that the change of use from a garage to a bedroom should effect the nonconforming rights to the property.

Ms. Stachowiak stated that the use is single family and therefore, changing a garage to living space has no effect on nonconforming rights.

Mr. Kowalk said that he never saw the plans for the construction and would have appreciated knowing what was happening before he got the postcard in the mail and saw the construction underway. He said that they chose this neighborhood because the houses were not right on top of each other and they had some privacy. He stated that now that privacy is being taken away. He also said that the variance would allow an addition that is not in harmony with the rest of the neighborhood.

Mr. Burgess asked if anyone else wished to address the Board. Seeing none, the Board moved into the Committee of the Whole.

Mr. Swix stated that part of the criteria that the Board must consider is the impact of the project on surrounding property owners. He said that this project will have a negative impact on the adjoining property owner by impacting their view and cutting off sunlight.

Ms. Horne stated that the Board gave a variance to a property owner on Lewton Place years ago to construct a garage and it has interfered with sunlight for the neighbors and diminished the enjoyment of their property.

Mr. Hilts asked that Planning Board address the concept of air rights since the existing ordinances do not appear to do so. He also said that the applicant's do not have a practical difficulty since the addition is a matter of mere preference rather than a necessity.

Ms. Stachowiak said that the same thing could potentially be said for any variance request, including the other two that were heard tonight.

Mr. Hilts said that they could put the addition on the back of the house where it would have less of an impact on the next door neighbors.

Mr. Frederick said that the variance does not meet the impact criteria. He said that it also does not meet the practical difficulty criteria since the applicant could have redesigned the construction to meet the required setback, particularly since the original structure was striped down to only 2 walls.

G. Hilts moved to deny BZA-3904.07, a variance of 3 feet to the required side yard setback for a 4.5 foot addition on the front of the home at 1709 Moores River Drive, on a finding that the variance would be inconsistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e). Seconded by E. Horne.

VOTE	YEA	NAY
Swix	X	
Horne	X	
Hilts	X	
Burgess		X
Frederick	X	

Motion carried, 4-1, BZA-3904.07, was denied.

VI. OLD BUSINESS

- A. Rules of Procedure - No action
- B. BZA-3817.04, 1014 S. Pennsylvania Avenue - No action
- C. BZA-3900.07, Vacant Lot, N. of 3228 Everett Lane - No action

VII. PUBLIC COMMENT

Byron Haskins, 1709 Moores River Drive, said that he informed the neighbors about this project and was never told of any issues. He said that he may appeal the Board's decision to Circuit Court.

Gabrielle Haskins, 1709 Moores River Drive, said that the neighbors were aware of the project and in fact, they have a family member that is on the construction team.

Kevin Kowalk, 1300 Pettis Street, said that they were never told that the applicant would be building a second story.

Mr. Frederick stated that the issue for the Board in making its decision was primarily one of practical difficulty. The Board could not find that the request met the practical difficulty that is established by ordinance to approve the request.

VIII. APPROVAL OF MINUTES

A. Minutes of Regular Meeting held April 12, 2007

A. Frederick moved, seconded by G. Swix to approve the minutes of April 12, 2007, as printed. On a voice vote, the motion carried unanimously, 5-0.

IX. NEW BUSINESS

A. Excused Absence

A. Frederick moved, seconded by G. Swix to excuse Brian McGrain from this meeting, May 10, 2007. On a voice vote, the motion carried unanimously, 5-0.

X. ADJOURNMENT AT 8:50 p.m.

Respectfully submitted,

Susan Stachowiak, Zoning Administrator